

House Engrossed

State of Arizona
House of Representatives
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 88

HOUSE BILL 2401

AN ACT

AMENDING SECTIONS 10-122, 10-226, 10-1420, 10-2051, 10-2054, 10-2056, 10-2058, 10-2061, 10-2066, 10-2073, 10-2074, 10-2076, 10-2077, 10-2078, 10-2121, 10-2124, 10-2126, 10-2128, 10-2130, 10-2139, 10-2140, 10-2143, 10-2144, 10-11420 AND 10-11905, ARIZONA REVISED STATUTES; RELATING TO CORPORATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 10-122, Arizona Revised Statutes, is amended to read:

10-122. Filing, service and copying fees; public access fund; expedited report filing and access

A. The commission shall collect and deposit, pursuant to sections 35-146 and 35-147, the following fees when the documents described in this subsection are delivered to it for filing or issuance:

Document	Fee
1. Articles of incorporation	\$50
2. Application for use of indistinguishable name	10
3. Application for reserved name	10
4. Notice of transfer of reserved name	10
5. Application for registered name	10
6. Application for renewal of registered name	10
7. Agent's statement of resignation	10
8. Amendment of articles of incorporation	25
9. Restatement of articles of incorporation with amendment of articles	25
10. Articles of merger or share exchange	100
11. Articles of dissolution	25
12. Articles of domestication	100
13. Articles of revocation of dissolution	25
14. Application for reinstatement following administrative dissolution, in addition to other fees and penalties due	100
15. Application for authority	150
16. Application for withdrawal	25
17. Annual report	45
18. Articles of correction	25
19. Application for certificate of good standing	10
20. Any other document required or permitted to be filed by chapters 1 through 17 of this title	25

B. The commission shall collect a fee of twenty-five dollars each time process is served on it under chapters 1 through 17 of this title. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

C. The commission shall charge and collect a reasonable fee for copying documents on request, provided the fee does not exceed the cost of providing the service as determined by the commission. The commission shall also charge a reasonable fee for certifying the copy of a filed document, provided the fee does not exceed the cost of providing the service as determined by the commission.

1 D. A penalty of one hundred dollars payable in addition to other fees
2 accrues and is payable if a foreign corporation fails to file an amendment,
3 restated articles that include an amendment, or articles of merger within
4 sixty days of the time of filing in the jurisdiction in which the corporation
5 is domiciled.

6 E. One-third of the filing fees for the annual report of domestic and
7 foreign corporations paid pursuant to subsection A, paragraph 17 of this
8 section shall be deposited in the Arizona arts trust fund established by
9 section 41-983.01.

10 F. A public access fund is established consisting of the monies
11 received pursuant to paragraphs 2, 3 and 4 of this subsection. Monies in the
12 fund are subject to legislative appropriation. The following provisions apply
13 to the fund:

14 1. The commission shall administer the fund and spend monies in the
15 fund to purchase, install and maintain an improved data processing system on
16 the premises of the commission and for a part of the general administrative
17 and legal expenses of the commission. The data processing system shall be
18 designed to allow direct, on-line access by any person at a remote location
19 to all public records that are filed with the commission pursuant to this
20 title.

21 2. The commission shall provide for and establish an expedited service
22 for the filing of all documents and services provided pursuant to this title
23 as follows:

24 (a) The expedited filing shall be a priority same day service effected
25 in a fast and efficient manner.

26 (b) The commission shall charge a fee for expedited services,
27 including those requested by telefacsimile transmission. This fee is in
28 addition to any other fees provided by law, including those in this
29 section. The fee for expedited services shall be set by the commission to
30 cover the cost of the service.

31 3. The commission may charge persons who access the commission's data
32 processing system from remote locations and persons requesting special
33 computer generated printouts, reports and tapes a reasonable fee that does
34 not exceed the cost of the time, equipment and personnel necessary to provide
35 this service or product as determined by the commission.

36 4. In addition to any fee charged pursuant to this section, the
37 commission may charge and collect the following fees to help defray the cost
38 of the improved data processing system:

39 (a) Filing articles of incorporation of a domestic corporation, ten
40 dollars.

41 (b) Filing an application of a foreign corporation for authority to
42 transact business in this state, twenty-five dollars.

43 5. All monies received pursuant to paragraphs 2, 3 and 4 of this
44 subsection shall be deposited, pursuant to sections 35-146 and 35-147, in the
45 public access fund. The commission shall use the monies deposited in the

1 fund for the purposes provided in this section. Fees charged pursuant to
2 this section are exempt from section 39-121.03, subsection A, paragraph 3,
3 relating to a charge for value of a reproduction on the commercial
4 market. Monies in the fund are exempt from the provisions of section 35-190
5 relating to lapsing of appropriations, except that any unencumbered monies
6 in excess of two hundred thousand dollars at the end of each fiscal year
7 revert to the state general fund.

8 6. When sufficient monies have been collected pursuant to paragraphs
9 2, 3 and 4 of this subsection to pay for the purchase and installation of the
10 data processing system, the commission shall not charge and collect the fees
11 prescribed in paragraph 4 of this subsection.

12 Sec. 2. Section 10-226, Arizona Revised Statutes, is amended to read:

13 10-226. Transfer of domicile from this state

14 A. Any corporation incorporated and in good standing under the laws
15 of this state may transfer its domicile to another jurisdiction by adopting
16 articles of domestication in accordance with the laws of the jurisdiction
17 into which the corporation is to transfer its domicile. The articles of
18 domestication must be adopted by the corporation in the manner provided by
19 the laws of this state for amendment to the articles of incorporation.

20 B. On filing of the articles of domestication with the official having
21 custody of the corporate records in the jurisdiction to which the corporate
22 domicile is transferred, the corporation ceases to be a corporation
23 incorporated under the laws of this state and becomes a foreign corporation
24 ~~qualified to transact business in this state subject to all laws of this~~
25 ~~state with respect to foreign corporations so qualified. IF THE FOREIGN~~
26 ~~CORPORATION IS REQUIRED TO FILE FOR AUTHORITY TO TRANSACT BUSINESS UNDER~~
27 ~~CHAPTER 15 OF THIS TITLE, IT SHALL APPLY FOR THAT AUTHORITY ON FILING~~
28 ~~ARTICLES OF DOMESTICATION IN THE OTHER JURISDICTION AS DESCRIBED IN~~
29 ~~SUBSECTION A.~~

30 Sec. 3. Section 10-1420, Arizona Revised Statutes, is amended to read:

31 10-1420. Grounds for administrative dissolution

32 The commission may commence a proceeding under section 10-1421 to
33 administratively dissolve a corporation if either:

34 1. The corporation does not pay within sixty days after they are due
35 any fees or penalties imposed by chapters 1 through 17 of this title.

36 2. The corporation does not deliver its annual report to the
37 commission within sixty days after it is due.

38 3. The corporation is without a statutory agent or known place of
39 business in this state for sixty days or more.

40 4. The corporation does not notify the commission within sixty days
41 that its statutory agent or known place of business has been changed, that
42 its statutory agent has resigned or that its principal office has been
43 discontinued.

44 5. The corporation has failed to make any publication required by this
45 title and file an affidavit of publication thereof within the time prescribed

1 by this title, provided the commission has notified the corporation of the
2 intent of the commission to commence a dissolution proceeding for that reason
3 and the corporation has failed to file an affidavit of publication within
4 sixty days after that notice.

5 6. The corporation's period of duration stated in its articles of
6 incorporation expires.

7 7. The corporation has failed to comply with section 10-202,
8 subsection F.

9 8. Any officer or other representative of the corporation has made any
10 misrepresentation of a material matter in any application, report, affidavit
11 or other document submitted by the corporation pursuant to chapters 1 through
12 17 of this title.

13 9. The corporation has failed to comply with section 10-1403,
14 subsection D, or the commission has not received the notice required by
15 section 10-1403, subsection C, within six months after filing articles of
16 dissolution.

17 10. The corporation has failed to file a certificate of disclosure or
18 answer interrogatories as prescribed in chapters 1 through 17 of this title.

19 11. THE CORPORATION FAILED TO COMPLY WITH SECTION 10-1623, SUBSECTION
20 A.

21 Sec. 4. Section 10-2051, Arizona Revised Statutes, is amended to read:
22 10-2051. Definitions

23 In this article, unless the context otherwise requires:

24 1. "Cooperative" means a corporation that is organized under this
25 article or that becomes subject to this article in the manner provided in
26 this article.

27 2. "EXECUTED BY THE COOPERATIVE" MEANS EXECUTED BY MANUAL OR FACSIMILE
28 SIGNATURE ON BEHALF OF THE COOPERATIVE BY A DULY AUTHORIZED OFFICER OR, IF
29 THE CORPORATION IS UNDER THE CONTROL OF A RECEIVER OR TRUSTEE, BY THE
30 RECEIVER OR TRUSTEE.

31 2- 3. "Person" means a natural person, firm, association,
32 corporation, business trust, partnership, federal agency, state or political
33 subdivision or agency thereof OF A STATE or any body politic.

34 Sec. 5. Section 10-2054, Arizona Revised Statutes, is amended to read:
35 10-2054. Name

36 A. The name of a cooperative shall include the words "electric" and
37 "cooperative," and the abbreviation "inc.," unless, in an affidavit made by
38 ~~its president or vice-president~~ A STATEMENT EXECUTED BY THE COOPERATIVE and
39 filed with the corporation commission, or in an affidavit made by a person
40 signing the articles of incorporation, consolidation, merger or conversion,
41 which relate to the cooperative, and filed, together with the articles, with
42 the corporation commission, it appears that the cooperative desires to do
43 business in another state and is or would be precluded therefrom FROM DOING
44 SO by reason of the inclusion of such EITHER OR BOTH OF THOSE words or either
45 thereof in its name.

1 B. The name of a cooperative shall be distinct from the name of any
2 other cooperative or corporation organized under the laws of, or authorized
3 to do business in, this state. Only a cooperative doing business in this
4 state pursuant to this article shall use both the words "electric" and
5 "cooperative" in its name, but this section shall not apply to any
6 corporation which becomes subject to this article by complying with the
7 provisions of section 10-2076 and which elects to retain a corporate name
8 which does not comply with this section. The restriction on the use of the
9 words "electric" and "cooperative" does not apply to generation and
10 transmission cooperatives organized under article 4 of this chapter.

11 Sec. 6. Section 10-2056, Arizona Revised Statutes, is amended to read:
12 10-2056. Amendment of articles

13 A. A cooperative may amend its articles by complying with the
14 requirements prescribed in subsection B of this section, but a change in
15 location of its principal office may be effected in the manner set forth in
16 section 10-2066.

17 B. The proposed amendment shall be presented to a meeting of the
18 members, and the notice of the meeting shall set forth or have attached to
19 it the proposed amendment. If the proposed amendment, with any changes, is
20 approved by the affirmative vote of not less than two-thirds of those members
21 voting or the number of members prescribed in the bylaws but not less than
22 a majority of those members voting, the articles of amendment shall be
23 executed and ~~acknowledged on behalf of BY the cooperative by its president~~
24 ~~or vice-president and shall be attested by its secretary and the seal shall~~
25 ~~be affixed to the articles of amendment.~~

26 C. ~~The articles of amendment shall recite that they are executed~~
27 ~~pursuant to this article and shall state:~~

- 28 1. The name of the cooperative.
- 29 2. The address of its principal office.
- 30 3. The amendment of its articles of incorporation.

31 ~~D. The president or vice-president executing the articles of amendment~~
32 ~~shall make and attach to the articles of amendment an affidavit stating that~~
33 ~~the provisions of this section in respect of the amendment set forth in the~~
34 ~~articles were duly complied with.~~

35 Sec. 7. Section 10-2058, Arizona Revised Statutes, is amended to read:
36 10-2058. Board of directors; compensation; term; quorum

37 A. The business of a cooperative shall be managed by a board of
38 directors. Unless the bylaws provide otherwise, each of the directors shall
39 be a member of the cooperative or of another cooperative that is a
40 member. The bylaws shall prescribe the number of directors, their
41 qualifications other than those prescribed in this article and the manner of
42 holding meetings of the board of directors and of electing successors to
43 directors who resign or die or who are otherwise incapable of acting. The
44 bylaws may also provide for the removal of directors from office and for the
45 election of their successors.

1 B. Unless the bylaws provide otherwise, the directors shall not
2 receive salaries for services as directors and, except in emergencies, shall
3 not be employed by the cooperative in any capacity involving compensation
4 without the approval of the members. The bylaws may allow a payment of a fee
5 and provide that expenses of attendance may be allowed to each director for
6 attendance at each meeting of the board of directors.

7 C. The directors of a cooperative named in the articles of
8 incorporation, consolidation, merger or conversion shall hold office until
9 successors are elected and qualify. The bylaws shall prescribe the manner
10 of electing directors and the number and terms of the directors, including
11 whether the terms are staggered. If stated in the bylaws, at each annual
12 meeting, or, in case of failure to hold the annual meeting as specified in
13 the bylaws, at a special meeting called for that purpose, the members shall
14 elect directors to hold office until the next annual meeting of the members,
15 except as otherwise provided in this article. Each director shall hold
16 office for the term for which he THE DIRECTOR is elected and until his A
17 successor is elected and qualifies. A DIRECTOR MAY RESIGN AT ANY TIME BY
18 DELIVERING WRITTEN NOTICE TO THE BOARD OF DIRECTORS, ITS PRESIDING OFFICER
19 OR THE COOPERATIVE. A RESIGNATION IS EFFECTIVE WHEN THE NOTICE IS DELIVERED
20 UNLESS THE NOTICE SPECIFIES A LATER EFFECTIVE DATE OR EVENT.

21 D. A majority of the board of directors shall constitute a quorum.

22 E. If a husband and wife hold a joint membership in a cooperative,
23 either one, but not both, may be elected a director.

24 F. The board of directors may take any action without a meeting if the
25 action would be allowed at a meeting and if before the board takes the action
26 all of the directors who are normally required to approve the action at a
27 meeting provide prior consent by signing a written statement that explains
28 and approves the action.

29 G. The board of directors may exercise all the powers of a cooperative
30 not conferred upon the members by this article, or its articles of
31 incorporation or bylaws.

32 H. Any person who serves as a director OR OFFICER or who serves on a
33 board or council in an advisory capacity to the cooperative or board of
34 directors of a cooperative is immune from civil liability and is not subject
35 to a suit directly or by way of contribution for any act or omission that
36 results in damage or injury if that person was acting in good faith and
37 within the scope of that person's official capacity and the damage or injury
38 was not caused by the wilful conduct or gross negligence of that person.
39 Nothing in this subsection limits or modifies in any manner the duties or
40 liabilities of a director or person who serves in any advisory capacity to
41 the cooperative or the cooperative members. For the purposes of this
42 subsection, "official capacity" means any decision, act or event the
43 cooperative undertakes in furtherance of the purposes for which the
44 cooperative is organized or operating.

1 Sec. 8. Section 10-2061, Arizona Revised Statutes, is amended to read:
2 10-2061. Nonliability of members for cooperative indebtedness

3 A member shall not be liable or responsible for any THE ACTS, debts,
4 LIABILITIES OR OBLIGATIONS of the cooperative and the property of the members
5 shall not be subject to execution therefor.

6 Sec. 9. Section 10-2066, Arizona Revised Statutes, is amended to read:
7 10-2066. Change of location of principal office

8 A cooperative may, upon authorization of its board of directors or its
9 members, change the location of its principal office by filing in the office
10 of the corporation commission a certificate reciting the change of principal
11 office, ~~executed and acknowledged by its president or vice-president,~~
12 ~~attested by its secretary and with its seal affixed thereto~~ THE COOPERATIVE.

13 Sec. 10. Section 10-2073, Arizona Revised Statutes, is amended to
14 read:

15 10-2073. Consolidation

16 A. Any two or more cooperatives, each of which is hereinafter
17 designated in this article a "consolidating cooperative," may consolidate
18 into a new cooperative, hereinafter designated in this article the "new
19 cooperative," by complying with the following requirements:

20 1. The proposition for the consolidation of the consolidating
21 cooperatives into the new cooperative and proposed articles to accomplish the
22 consolidation shall be submitted to a meeting of the members of each
23 consolidating cooperative, the notice of which shall have attached thereto
24 a copy of the proposed articles of consolidation.

25 2. If the proposed consolidation and the proposed articles of
26 consolidation, with any amendments, are approved by the affirmative vote of
27 not less than two-thirds of those members of each consolidating cooperative
28 voting thereon at the meeting, articles of consolidation in the form approved
29 shall be ~~executed and acknowledged on behalf of~~ BY each consolidating
30 cooperative ~~by its president or vice-president, attested by its secretary and~~
31 ~~its seal affixed thereto.~~

32 B. The articles of consolidation shall recite that they are executed
33 pursuant to this article and shall state:

34 1. The name of each consolidating cooperative and the address of its
35 principal office.

36 2. The name of the new cooperative and the address of its principal
37 office.

38 3. A statement that each consolidating cooperative agreed to the
39 consolidation.

40 4. The names and addresses of the directors of the new cooperative.

41 5. The terms and conditions of the consolidation and the mode of
42 carrying it into effect, including the manner in which members of the
43 consolidating cooperatives may or shall become members of the new
44 cooperative. The articles may also contain any provisions not inconsistent

1 with this article deemed necessary or advisable for the conduct of the
2 business of the new cooperative.

3 ~~C. The president or vice-president of each consolidating cooperative~~
4 ~~executing the articles of consolidation shall make and annex thereto an~~
5 ~~affidavit stating that the provisions of this section in respect of such~~
6 ~~articles were duly complied with by the cooperative.~~

7 Sec. 11. Section 10-2074, Arizona Revised Statutes, is amended to
8 read:

9 10-2074. Merger

10 A. Any one or more electric cooperatives, each of which is hereinafter
11 designated in this article a "merging cooperative," may merge into another
12 cooperative, hereinafter designated in this article the "surviving
13 cooperative," by complying with the following requirements:

14 1. The proposition for the merger of the merging electric cooperatives
15 into the surviving cooperative and proposed articles of merger to give effect
16 thereto TO THE MERGER shall be submitted to a meeting of the members of each
17 merging cooperative and of the surviving cooperative, the notice of which
18 shall have attached thereto a copy of the proposed articles of merger.

19 2. If the proposed merger and proposed articles of merger, with any
20 amendments, are approved by the affirmative vote of not less than two-thirds
21 of those members of each cooperative voting thereon at each such meeting,
22 articles of merger in the form approved shall be executed and acknowledged
23 on behalf of each such cooperative by its president or vice-president,
24 attested by its secretary and its seal affixed thereto BY EACH MERGING
25 COOPERATIVE.

26 B. The articles of merger shall recite that they are executed pursuant
27 to this article and shall state:

28 1. The name of each merging cooperative and the address of its
29 principal office.

30 2. The name of the surviving cooperative and the address of its
31 principal office.

32 3. A statement that each merging cooperative and the surviving
33 cooperative agree to the merger.

34 4. The names and addresses of the directors of the surviving
35 cooperative.

36 5. The terms and conditions of the merger and the manner of carrying
37 it into effect, including the manner in which members of the merging
38 cooperatives may or shall become members of the surviving cooperative. The
39 articles may also contain any provisions not inconsistent with this article
40 deemed necessary or advisable for the conduct of the business of the
41 surviving cooperative.

42 ~~C. The president or vice-president of each cooperative executing~~
43 ~~articles of merger shall make and annex thereto an affidavit stating that the~~
44 ~~provisions of this section in respect of the articles were duly complied with~~
45 ~~by the cooperative.~~

1 Sec. 12. Section 10-2076, Arizona Revised Statutes, is amended to
2 read:

3 10-2076. Conversion of existing corporations

4 A. A corporation organized under the laws of this state and supplying
5 or having the corporate power to supply electric energy may be converted into
6 a cooperative by complying with the following requirements and shall
7 thereupon THEN become subject to this article with the same effect as if
8 originally organized under this article:

9 1. The proposition for the conversion of the corporation into a
10 cooperative and proposed articles of conversion to give effect thereto TO THE
11 CONVERSION shall be submitted to a meeting of the members or stockholders of
12 the corporation, or in case of a corporation having no members or
13 stockholders, to a meeting of the incorporators of the corporation, the
14 notice of which shall have attached thereto a copy of the proposed articles
15 of conversion.

16 2. If the proposition for the conversion of the corporation into a
17 cooperative and the proposed articles of conversion, with any amendments, are
18 approved by the affirmative vote of not less than two-thirds of those members
19 of the corporation voting thereon at the meeting, or, if the corporation is
20 a stock corporation, by the affirmative vote of the holders of not less than
21 two-thirds of those shares of the capital stock of that corporation
22 represented at the meeting and voting thereon, or, in the case of a
23 corporation having no members and no shares of its capital stock outstanding,
24 by the affirmative vote of not less than two-thirds of its incorporators,
25 articles of conversion in the form approved shall be executed and
26 ~~acknowledged on behalf of the corporation by its president or vice-president,~~
27 ~~attested by its secretary and its seal affixed thereto~~ BY THE COOPERATIVE.

28 B. ~~The articles of conversion shall recite that they are executed~~
29 ~~pursuant to this article and shall state:~~

30 1. The name of the corporation and the address of its principal office
31 prior to its conversion into a cooperative.

32 2. The statute or statutes under which it was organized.

33 3. A statement that the corporation elects to become a cooperative
34 nonprofit membership corporation subject to this article.

35 4. Its name as a cooperative.

36 5. The address of the principal office of the cooperative.

37 6. The names and addresses of the directors of the cooperative.

38 7. The manner in which members, stockholders or incorporators of the
39 corporation may or shall become members of the cooperative. The articles may
40 also contain any provisions not inconsistent with this article deemed
41 necessary or advisable for the conduct of the business of the cooperative.

42 ~~C. The president or vice-president executing the articles of~~
43 ~~conversion shall make and attach thereto an affidavit stating that the~~
44 ~~provisions of this section were duly complied with in respect of such~~
45 ~~articles.~~

1 D. C. The articles of conversion shall be deemed the articles of
2 incorporation of the cooperative.

3 Sec. 13. Section 10-2077, Arizona Revised Statutes, is amended to
4 read:

5 10-2077. Dissolution

6 A. A cooperative which has not commenced business may be dissolved by
7 delivering to the corporation commission articles of dissolution which shall
8 be executed ~~and acknowledged on behalf of~~ BY the cooperative by a majority
9 ~~of the incorporators~~ and which shall state:

10 1. The name of the cooperative.

11 2. The address of its principal office.

12 3. That the cooperative has not commenced business.

13 4. That any monies received by the cooperative, less any part thereof
14 disbursed for expenses of the cooperative, have been returned or paid to
15 those entitled thereto TO THE MONIES.

16 5. That no debt of the cooperative is unpaid.

17 6. That a majority of the incorporators elect that the cooperative be
18 dissolved.

19 B. A cooperative which has commenced business may be dissolved in the
20 following manner:

21 1. The proposition to dissolve shall be submitted to the members of
22 the cooperative at any annual or special meeting, the notice of which shall
23 set forth the proposition.

24 2. The members at the meeting shall approve, by the affirmative vote
25 of not less than a majority of all members of the cooperative, the
26 proposition that the cooperative be dissolved.

27 3. Upon approval, a certificate of election to dissolve hereinafter
28 designated in this subsection as the "certificate", shall be executed ~~and~~
29 ~~acknowledged on behalf of~~ BY the cooperative by its president or vice-
30 president, ~~attested by its secretary and its seal affixed thereto.~~

31 4. The certificate shall state:

32 (a) The name of the cooperative.

33 (b) The address of its principal office.

34 (c) That the members of the cooperative have duly voted that the
35 cooperative be dissolved.

36 5. The certificate shall, ~~together with an affidavit made by the~~
37 ~~president or vice-president executing the certificate stating that the~~
38 ~~statements in the certificate are true,~~ be submitted to the corporation
39 commission for filing.

40 6. Upon filing the certificate ~~and affidavit~~ with the corporation
41 commission the cooperative shall cease to carry on its business except to the
42 extent necessary for winding up, but its corporate existence shall continue
43 until articles of dissolution have been filed with the corporation
44 commission.

1 7. The board of directors shall immediately cause notice of the
2 dissolution proceedings to be mailed to each known creditor of and claimant
3 against the cooperative and such notice shall be published once a week for
4 two successive weeks in a newspaper of general circulation in the county in
5 which the principal office of the cooperative is located.

6 8. The board of directors shall wind up and settle the affairs of the
7 cooperative, collect monies owing to it, liquidate its property and assets,
8 pay and discharge its debts, obligations and liabilities, other than those
9 to patrons arising by reason of their patronage, and do all other things
10 required to wind up its business. After paying or discharging or adequately
11 providing for the payment or discharge of all its debts, obligations and
12 liabilities, other than those to patrons arising by reason of their
13 patronage, the board of directors shall distribute any remaining sums, first
14 to patrons for the pro rata return of all amounts standing to their credit
15 by reason of their patronage, and second to members for the pro rata
16 repayment of membership fees. Any sums then remaining shall be distributed
17 among its members and former members in proportion to their patronage.

18 9. The board of directors shall thereupon authorize the execution of
19 articles of dissolution, which shall be executed ~~and acknowledged on behalf~~
20 ~~of BY the cooperative by its president or vice-president, attested by its~~
21 ~~secretary and its seal shall be affixed thereto.~~

22 10. The articles of dissolution shall recite that they are executed
23 pursuant to this article and shall state:

24 (a) The name of the cooperative.

25 (b) The address of its principal office.

26 (c) The date on which the certificate of election to dissolve was
27 filed by the corporation commission.

28 (d) That there are no actions or suits pending against the
29 cooperative.

30 (e) That all debts, obligations and liabilities of the cooperative
31 have been paid and discharged or that adequate provision has been made
32 therefor FOR PAYMENT AND DISCHARGE.

33 (f) That the preceding provisions of this subsection have been duly
34 complied with.

35 ~~11. The president or vice-president executing the articles of~~
36 ~~dissolution shall make and annex to the articles an affidavit stating that~~
37 ~~the statements made therein are true.~~

38 Sec. 14. Section 10-2078, Arizona Revised Statutes, is amended to
39 read:

40 10-2078. Filing of articles

41 Articles of incorporation, amendment, consolidation, merger, conversion
42 or dissolution, when executed ~~and acknowledged and accompanied by such~~
43 ~~affidavits as may be required by applicable provisions of this article BY THE~~
44 COOPERATIVE, shall be delivered to the corporation commission for filing. If
45 the corporation commission finds that the articles presented conform to the

1 requirements of this article, it shall, upon the payment of the fees as
2 PROVIDED in this article provided, file the articles, and upon such filing,
3 the incorporation, amendment, consolidation, merger, conversion or
4 dissolution provided for therein shall be in effect. The provisions of this
5 section shall also apply to certificates of election to dissolve and
6 affidavits executed in connection therewith pursuant to section 10-2077,
7 subsection B.

8 Sec. 15. Section 10-2121, Arizona Revised Statutes, is amended to
9 read:

10 10-2121. Definitions

11 In this article, unless the context otherwise requires:

12 1. "Electric utility" means any corporation, governmental agency,
13 political subdivision or other entity or combination of such entities which
14 produces, generates, purchases, sells, transmits or distributes electricity
15 to another electric utility or to a user of electricity.

16 2. "EXECUTED BY THE COOPERATIVE" MEANS EXECUTED BY MANUAL OR FACSIMILE
17 SIGNATURE ON BEHALF OF THE COOPERATIVE BY A DULY AUTHORIZED OFFICER OR, IF
18 THE CORPORATION IS UNDER THE CONTROL OF A RECEIVER OR TRUSTEE, BY THE
19 RECEIVER OR TRUSTEE.

20 2. 3. "Generation and transmission cooperative" means a corporation
21 THAT IS organized under this article or that becomes subject to this article
22 as provided in this article.

23 3. 4. "Person" means a natural person, firm, association,
24 corporation, business trust or partnership or any agency or political
25 subdivision of the United States or of this state or any other political
26 body.

27 Sec. 16. Section 10-2124, Arizona Revised Statutes, is amended to
28 read:

29 10-2124. Use of name

30 A. The name of a generation and transmission cooperative shall include
31 the word "cooperative" and the abbreviation "inc.", unless, in an affidavit
32 made by its president or vice-president A STATEMENT EXECUTED BY THE
33 COOPERATIVE and filed with the corporation commission, it appears that the
34 generation and transmission cooperative desires to transact business in
35 another state and would be precluded from doing so by reason of including
36 these words in its name.

37 B. The name of the generation and transmission cooperative must be
38 distinct from the name of any other cooperative or corporation organized
39 under the laws of or authorized to do business in this state. Only a
40 generation and transmission cooperative doing business in this state pursuant
41 to this article may use all of the words "electric", "power" and
42 "cooperative" in its name.

1 Sec. 17. Section 10-2126, Arizona Revised Statutes, is amended to
2 read:

3 10-2126. Amendment of articles; change of location of principal
4 office

5 A. A generation and transmission cooperative may amend its articles
6 of incorporation by complying with the following requirements:

7 1. A proposed amendment shall be presented to a meeting of the
8 members. The meeting notice shall state or have attached to it all proposed
9 amendments. A proposed amendment, with any changes, shall be approved by the
10 affirmative vote of either:

11 (a) At least two-thirds of the total number of voting delegates voting
12 at the meeting.

13 (b) The number prescribed in the bylaws but not less than a majority
14 of the total number of voting delegates voting at the meeting.

15 2. After approval, the articles of amendment shall be executed and
16 ~~acknowledged on behalf of the generation and transmission cooperative by its~~
17 ~~president or vice-president and shall be attested by its secretary and the~~
18 ~~corporate seal shall be affixed to the articles of amendment BY THE~~
19 ~~COOPERATIVE.~~

20 3. The articles of amendment shall recite that they are executed
21 pursuant to this article and shall state:

22 (a) The name of the generation and transmission cooperative.

23 (b) The address of its principal office.

24 (c) The amendment of its articles of incorporation.

25 4. ~~The president or vice-president executing the articles of amendment~~
26 ~~shall make and attach to the articles of amendment an affidavit affirming~~
27 ~~compliance with the provisions of this subsection. The articles of amendment~~
28 ~~and affidavit shall be submitted to the corporation commission for filing as~~
29 ~~provided in this article.~~

30 B. On authorization of the board of directors or its members, a
31 generation and transmission cooperative may, without amending its articles
32 of incorporation, change the location of its principal office by filing with
33 the corporation commission a certificate that recites the change of principal
34 office, ~~AND that is executed and acknowledged by its president or~~
35 ~~vice-president and that is attested by its secretary and the corporate seal~~
36 ~~shall be affixed to the certificate BY THE COOPERATIVE.~~

37 Sec. 18. Section 10-2128, Arizona Revised Statutes, is amended to
38 read:

39 10-2128. Membership in a generation and transmission
40 cooperative; voting; nonliability

41 A. Only electric utilities and other persons as the bylaws provide are
42 eligible to be members of a generation and transmission cooperative. All
43 incorporators shall be original members of a generation and transmission
44 cooperative, and new members may be admitted by a majority vote of all voting

1 delegates. The bylaws may prescribe additional qualifications, limitations
2 and classifications and rights concerning membership.

3 B. The articles of incorporation or the bylaws of a generation and
4 transmission cooperative may provide for classifications of members in a
5 generation and transmission cooperative.

6 C. The bylaws shall provide the number of voting delegates that each
7 member may designate. The bylaws may provide that each classification of
8 members may designate a different number of voting delegates.

9 D. Members are entitled to vote as members only through their duly
10 designated voting delegate. A reference in this article to approval or votes
11 by members refers to the members approving or voting through their voting
12 delegates.

13 E. A member is not liable or responsible for any THE ACTS, debts,
14 LIABILITIES OR OBLIGATIONS of the generation and transmission cooperative,
15 and the property of the members is not subject to execution for such ACTS,
16 debts, LIABILITIES OR OBLIGATIONS unless the member otherwise agrees.

17 Sec. 19. Section 10-2130, Arizona Revised Statutes, is amended to
18 read:

19 10-2130. Board of directors; term; compensation; quorum

20 A. A board of directors shall manage the business of a generation and
21 transmission cooperative. The directors named in the articles of
22 incorporation, consolidation, merger or conversion hold office until the
23 directors' successors are elected and qualify. The bylaws shall prescribe
24 the number and terms of directors and the manner of electing the
25 directors. Each director shall hold office for the term for which the
26 director is elected and until the director's successor is elected and
27 qualifies. A DIRECTOR MAY RESIGN AT ANY TIME BY DELIVERING WRITTEN NOTICE
28 TO THE BOARD OF DIRECTORS, ITS PRESIDING OFFICER OR THE COOPERATIVE. A
29 RESIGNATION IS EFFECTIVE WHEN THE NOTICE IS DELIVERED UNLESS THE NOTICE
30 SPECIFIES A LATER EFFECTIVE DATE OR EVENT.

31 B. The bylaws shall prescribe the number of directors as provided in
32 subsection A, the directors' qualifications other than those prescribed in
33 this article; AND the manner of holding meetings of the board of directors
34 and of electing successors to directors who resign or die or who are
35 otherwise incapable of acting. The bylaws may also provide for the removal
36 of directors from office and for the election of the directors' successors.

37 C. Unless the bylaws provide otherwise, the directors shall not
38 receive salaries for services as directors and, except in emergencies, shall
39 not be employed by the generation and transmission cooperative in any
40 capacity involving compensation without the approval of the members. The
41 bylaws may allow a payment of a fee and may provide that expenses of
42 attendance are allowed to each director for attendance at each meeting of the
43 board of directors.

44 D. A majority of the board of directors constitutes a quorum.

1 E. Any action which may be taken at a meeting may be taken without a
2 meeting if a writing stating and approving the action taken is signed prior
3 to the action being taken by the number of directors normally required to
4 approve the action at a meeting. This prior consent has the same force and
5 effect as a vote at a meeting.

6 F. The board of directors may exercise all the powers of a cooperative
7 not conferred on the members by this article, or its articles of
8 incorporation or bylaws.

9 G. Any person who serves as a director OR OFFICER or who serves on a
10 board or council in an advisory capacity to the cooperative or board of
11 directors of a cooperative is immune from civil liability and is not subject
12 to a suit directly or by way of contribution for any act or omission that
13 results in damage or injury if that person was acting in good faith and
14 within the scope of that person's official capacity and the damage or injury
15 was not caused by the wilful or grossly negligent conduct of that
16 person. Nothing in this subsection limits or modifies in any manner the
17 duties or liabilities of a director or person who serves in an advisory
18 capacity to the cooperative or the cooperative's members. For the purposes
19 of this subsection, "official capacity" means any decision, act or event
20 undertaken by the cooperative in furtherance of the purposes for which that
21 cooperative is organized or operating.

22 Sec. 20. Section 10-2139, Arizona Revised Statutes, is amended to
23 read:

24 10-2139. Consolidation

25 A. Any two or more generation and transmission cooperatives, each of
26 which is designated in this article as a "consolidating cooperative", may
27 consolidate into a new generation and transmission cooperative, designated
28 in this article as the "new cooperative", by complying with the requirements
29 of this section.

30 B. A proposition for the consolidation of consolidating cooperatives
31 into a new cooperative and proposed articles to accomplish the consolidation
32 shall be submitted to a meeting of the members of each consolidating
33 cooperative. A copy of the proposed articles of consolidation shall be
34 attached to the meeting notice. The articles of consolidation shall recite
35 ~~that they are executed pursuant to this article and shall state:~~

36 1. The name of each consolidating cooperative and the address of its
37 principal office.

38 2. The name of the new cooperative and the address of its principal
39 office.

40 3. A statement that each consolidating cooperative agreed to the
41 consolidation.

42 4. The names and addresses of the directors of the new cooperative.

43 5. The terms and conditions of the consolidation and the mode of
44 carrying it into effect, including the manner in which members of the
45 consolidating cooperatives may or shall become members of the new

1 cooperative. The articles may also contain any provisions not inconsistent
2 with this article deemed necessary or advisable for the conduct of the
3 business of the new cooperative.

4 C. If the proposed consolidation and the proposed articles of
5 consolidation, with any amendments, are approved by the affirmative vote of
6 not less than two-thirds of those members of each consolidating cooperative,
7 acting through their voting delegates voting at the meeting, articles of
8 consolidation in the form approved shall be executed and acknowledged on
9 behalf of BY each consolidating cooperative by its president or
10 vice-president, attested by its secretary and its seal affixed to the
11 articles of consolidation.

12 ~~D. The president or vice-president of each consolidating cooperative~~
13 ~~executing the articles of consolidation shall make and annex to the articles~~
14 ~~an affidavit stating that this section was duly complied with by the~~
15 ~~cooperative. The articles of consolidation and affidavits shall be submitted~~
16 ~~to the corporation commission for filing as provided in section 10-2143.~~

17 Sec. 21. Section 10-2140, Arizona Revised Statutes, is amended to
18 read:

19 10-2140. Merger

20 A. Any one or more electric generation and transmission cooperatives,
21 each of which is designated in this article as a "merging cooperative", may
22 merge into another generation and transmission cooperative, designated in
23 this article as the "surviving cooperative", by complying with the
24 requirements of this section.

25 B. A proposition for the merger of the merging electric cooperatives
26 into the surviving cooperative and proposed articles of merger to give effect
27 to the merger shall be submitted to a meeting of the members of each merging
28 cooperative and of the surviving cooperative. The meeting notice must have
29 attached to it a copy of the proposed articles of merger. The articles of
30 merger shall recite that they are executed pursuant to this article and shall
31 state:

32 1. The name of each merging cooperative and the address of its
33 principal office.

34 2. The name of the surviving cooperative and the address of its
35 principal office.

36 3. A statement that each merging cooperative and the surviving
37 cooperative agree to the merger.

38 4. The names and addresses of the directors of the surviving
39 cooperative.

40 5. The terms and conditions of the merger and the manner of carrying
41 it into effect, including the manner in which members of the merging
42 cooperatives may or shall become members of the surviving cooperative. The
43 articles may also contain any provisions not inconsistent with this article
44 deemed necessary or advisable for the conduct of the business of the
45 surviving cooperative.

1 C. If the proposed merger and proposed articles of merger, with any
2 amendments, are approved by the affirmative vote of not less than two-thirds
3 of those members of each cooperative acting through their voting delegates,
4 voting at each meeting, articles of merger in the form approved shall be
5 executed and ~~acknowledged on behalf of each cooperative by its president or~~
6 ~~vice-president, attested by its secretary and its seal affixed to the~~
7 ~~articles of merger~~ BY EACH MERGING COOPERATIVE.

8 ~~D. The president or vice-president of each cooperative executing~~
9 ~~articles of merger shall make and annex to the articles an affidavit stating~~
10 ~~that this section was duly complied with by the cooperative. The articles~~
11 ~~of merger and affidavits shall be submitted to the corporation commission for~~
12 ~~filing as provided in section 10-2143.~~

13 Sec. 22. Section 10-2143, Arizona Revised Statutes, is amended to
14 read:

15 10-2143. Dissolution

16 A. A generation and transmission cooperative which has not commenced
17 business may dissolve voluntarily by delivering to the corporation commission
18 articles of dissolution, executed and acknowledged on behalf of the
19 generation and transmission cooperative by a majority of the incorporators,
20 which shall state:

21 1. The name of the generation and transmission cooperative.

22 2. The address of its principal office.

23 3. The date of its incorporation.

24 4. That the generation and transmission cooperative has not commenced
25 business.

26 5. That the amount, if any, actually paid in on account of membership
27 fees, less any part disbursed for necessary expenses, has been returned to
28 those entitled and that all easements have been released to the grantors.

29 6. That no debt of the generation and transmission cooperative remains
30 unpaid.

31 7. That a majority of the incorporators elects that the generation and
32 transmission cooperative be dissolved. The articles of dissolution shall be
33 submitted to the corporation commission for filing as provided in this
34 article.

35 B. A generation and transmission cooperative which has commenced
36 business may dissolve voluntarily and wind up its affairs in the following
37 manner:

38 1. The proposition that the generation and transmission cooperative
39 be dissolved must be submitted to the members of the generation and
40 transmission cooperative at any meeting. The meeting notice shall state the
41 proposition. The proposed voluntary dissolution is deemed to be approved on
42 the affirmative vote of not less than two-thirds of those members acting
43 through their voting delegates voting at the meeting.

44 2. On approval, a certificate of election to dissolve, designated the
45 "certificate", shall be executed ~~and acknowledged on behalf of~~ BY the

1 generation and transmission cooperative by its president or vice-president,
2 and its corporate seal shall be affixed to it and attested by its
3 secretary. The certificate shall state:

4 (a) The name of the generation and transmission cooperative.

5 (b) The address of its principal office.

6 (c) The names and addresses of its directors.

7 (d) The total number of voting delegates of the generation and
8 transmission cooperative and the number of voting delegates who voted for and
9 against the voluntary dissolution of the generation and transmission
10 cooperative. The president or vice-president executing the certificate shall
11 also make and attach to the certificate an affidavit stating that the
12 provisions of this subsection were duly complied with. The certificate and
13 affidavit shall be submitted to the corporation commission for filing as
14 provided in this article.

15 3. On the filing of the certificate and affidavit with the corporation
16 commission, the generation and transmission cooperative shall cease to carry
17 on its business except as is necessary for the winding up of business, but
18 its corporate existence continues until articles of dissolution have been
19 filed with the corporation commission.

20 4. After the filing of the certificate and affidavit with the
21 corporation commission, the board of directors shall immediately mail notice
22 of the winding up of proceedings to each known creditor and claimant and
23 publish notice once a week for two successive weeks in a newspaper of general
24 circulation in the county in which the principal office of the generation and
25 transmission cooperative is located.

26 5. The board of directors has full power to wind up and settle the
27 affairs of the cooperative and shall proceed to collect the debts owing to
28 the generation and transmission cooperative, convey and dispose of its
29 property and assets, pay, satisfy and discharge its debts, obligations and
30 liabilities and do all other things required to liquidate its business and
31 affairs and, after paying or adequately providing for the payment of all its
32 debts, obligations and liabilities, shall distribute the remainder of its
33 property and assets among its members without priority in proportion to the
34 aggregate patronage of each member during the seven years next preceding the
35 date of filing the certificate, or, if the generation and transmission
36 cooperative was not in existence for such period, during the period of its
37 existence.

38 6. When all debts, liabilities and obligations of the generation and
39 transmission cooperative have been paid and discharged or adequate provision
40 has been made for them, and all the remaining property and assets of the
41 generation and transmission cooperative have been distributed to the members
42 pursuant to this section, the board of directors shall authorize the
43 execution of articles of dissolution which shall be executed and acknowledged
44 on behalf of the generation and transmission cooperative by its president or
45 vice-president, and its corporate seal shall be affixed to the articles of

1 ~~dissolution and attested by its secretary. The articles of dissolution shall~~
2 ~~recite that they are executed pursuant to this article and shall state:~~

3 (a) The name of the generation and transmission cooperative.

4 (b) The address of the principal office of the generation and
5 transmission cooperative.

6 (c) That the generation and transmission cooperative has previously
7 delivered to the corporation commission a certificate of election to dissolve
8 and the date on which the certificate was filed by the corporation
9 commission.

10 (d) That all debts, obligations and liabilities of the generation and
11 transmission cooperative have been paid and discharged or that adequate
12 provision has been made for them.

13 (e) That all the remaining property and assets of the generation and
14 transmission cooperative have been distributed among the members in
15 accordance with this section.

16 (f) That there are no actions or suits pending against the generation
17 and transmission cooperative. ~~The president or vice-president executing the~~
18 ~~articles of dissolution shall also make and attach to the articles of~~
19 ~~dissolution an affidavit stating that this subsection was duly complied~~
20 ~~with. The articles of dissolution and affidavit accompanied by proof of the~~
21 ~~publication required in this subsection shall be submitted to the corporation~~
22 ~~commission for filing as provided in this article.~~

23 Sec. 23. Section 10-2144, Arizona Revised Statutes, is amended to
24 read:

25 10-2144. Filing of articles

26 Articles of incorporation, amendment, consolidation, merger, conversion
27 or dissolution, when executed ~~and acknowledged and accompanied by the~~
28 ~~required affidavits~~ BY THE COOPERATIVE, shall be delivered to the corporation
29 commission for filing. If the corporation commission finds that the articles
30 presented conform to the requirements of this article, it shall, on the
31 payment of the required fees, file the articles, and on filing, the
32 incorporation, amendment, consolidation, merger, conversion or dissolution
33 becomes effective. This section also applies to a certificate of election
34 to dissolve ~~and affidavits executed in connection with the certificate as~~
35 ~~provided in section 10-2143, subsection B, paragraph 2.~~

36 Sec. 24. Section 10-11420, Arizona Revised Statutes, is amended to
37 read:

38 10-11420. Grounds for administrative dissolution

39 The commission may commence a proceeding under section 10-11421 to
40 administratively dissolve a corporation if either:

41 1. The corporation does not pay within sixty days after they are due
42 any fees or penalties imposed by chapters 24 through 40 of this title.

43 2. The corporation does not deliver its annual report to the
44 commission within sixty days after it is due.

1 3. The corporation is without a statutory agent or known place of
2 business in this state.

3 4. The corporation does not notify the commission within sixty days
4 that its statutory agent or known place of business has been changed, that
5 its statutory agent has resigned or that its known place of business has been
6 discontinued.

7 5. The corporation has failed to make any publication required by this
8 title and file an affidavit of publication thereof within the time prescribed
9 by this title, provided the commission has notified the corporation of the
10 intent of the commission to commence a dissolution proceeding for that reason
11 and the corporation has failed to file an affidavit of publication within
12 sixty days after that notice.

13 6. The corporation's period of duration stated in its articles of
14 incorporation expires.

15 7. The corporation has failed to comply with section 10-3202,
16 subsection F.

17 8. Any officer or other representative of the corporation has made any
18 misrepresentation of a material matter in any application, report, affidavit
19 or other document submitted by the corporation pursuant to chapters 24
20 through 40 of this title.

21 9. The commission has not received the notice required by section
22 10-11403, subsection E within six months after filing articles of
23 dissolution.

24 10. The corporation has failed to file a certificate of disclosure or
25 answer interrogatories as prescribed in chapters 24 through 40 of this title.

26 11. THE CORPORATION FAILED TO COMPLY WITH SECTION 10-11623, SUBSECTION
27 A.

28 Sec. 25. Section 10-11905, Arizona Revised Statutes, is amended to
29 read:

30 10-11905. Execution of instruments

31 All deeds and other instruments in writing shall be made and signed in
32 the name of the corporation sole in the capacity designated in the
33 articles, and shall be sealed with the seal of the corporation.

APPROVED BY THE GOVERNOR APRIL 29, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 30, 2002.

Passed the House March 28, 2002,

by the following vote: 51 Ayes,

2 Nays, 7 Not Voting

Jake Flake
Speaker of the House
Pro Tempore
Norman L. Moore
Chief Clerk of the House

Passed the Senate April 23, 2002,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

Randall Strickland
President of the Senate
Charmine Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

24 day of April, 2002,

at 11:01 o'clock A M.

Sandra Camisey
Secretary to the Governor

Approved this 29th day of

April, 2002,

at 2:02 o'clock P M.

Janice Lee Hull
Governor of Arizona

H.B. 2401

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 30 day of April, 2002

at 11:50 o'clock A M.

Debrae Byler
Secretary of State